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7
8 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 TIBURCIO RODRIGUEZ-CORTEZ,

13 Defendant.
14

Case No. 2:20-mj-00782-NJK

**Stipulation to Extend
Deadlines to Conduct
Preliminary Hearing and
File Indictment (First Request)**

15 IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A.
16 Trutanich, United States Attorney, and Jared L. Grimmer, Assistant United States
17 Attorney, counsel for the United States of America, and Robert O'Brien,
18 Assistant Federal Public Defender, counsel for Defendant TIBURCIO RODRIGUEZ-
19 CORTEZ, that the Court schedule the preliminary hearing in this case for no earlier than
20 90 days from the date of the filing of this stipulation. This request requires that the Court
21 extend two deadlines: (1) that a preliminary hearing be conducted within 14 days of a
22 detained defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an
23
24

1 information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C.
2 § 3161(b).

3 This stipulation is entered into for the following reasons:

4 1. The United States Attorney's Office has developed an early disposition
5 program for immigration cases, authorized by the Attorney General pursuant to the
6 PROTECT ACT of 2003, Pub. L. 108-21.

7 2. The early disposition program for immigration cases is designed to: (1)
8 reduce the number of hearings required in order to dispose of a criminal case; (2) avoid
9 having more cases added to the court's trial calendar, while still discharging the
10 government's duty to prosecute federal crimes; (3) reduce the amount of time between
11 complaint and sentencing; and (4) avoid adding significant time to the grand jury calendar
12 to seek indictments in immigration cases, which in turn reduces court costs.

13 3. The government has made a plea offer in this case that requires defendant to
14 waive specific rights and hearings in exchange for "fast-track" downward departure under
15 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
16 indicted and before a preliminary hearing is held.

17 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
18 preliminary hearing within a reasonable time, but no later than 14 days after the initial
19 appearance if the defendant is in custody"

20 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a
21 showing of good cause—taking into account the public interest in the prompt disposition of
22 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
23 times"

1 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
2 information or indictment charging an individual with the commission of an offense shall
3 be filed within thirty days from the date on which such individual was arrested or served
4 with a summons in connection with such charges.”

5 7. Defendant needs additional time to review the discovery and investigate
6 potential defenses to make an informed decision as to how to proceed, including whether
7 to accept the fast-track plea agreement.

8 8. Accordingly, the parties jointly request that the Court schedule the
9 preliminary hearing in this case no sooner than 90 days from today’s date.

10 9. Defendant is in custody and agrees to the extension of the 14-day deadline
11 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.
12 § 3161(b), provided that the information or indictment is filed on or before the date ordered
13 pursuant to this stipulation .

14 10. The parties agree to the extension of that deadline.

15 11. This extension supports the public interest in the prompt disposition of
16 criminal cases by permitting defendant to consider entering into a plea agreement under the
17 United States Attorney’s Office’s fast-track program for § 1326 defendants.

18 12. Accordingly, the additional time requested by this stipulation is allowed
19 under Federal Rule of Criminal Procedure 5.1(d).

20 13. In addition, the parties stipulate and agree that the time between today and
21 the scheduled preliminary hearing is excludable in computing the time within which the
22 defendant must be indicted and the trial herein must commence pursuant to the Speedy
23 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.
24 § 3161(h)(7)(B)(i) and (iv).

DATED this 6th day of September, 2020.

Respectfully submitted,

NICHOLAS A. TRUTANICH
United States Attorney

/s/ Robert O'Brien

///s///

Assistant Federal Public Defender
Counsel for Defendant
TIBURCIO RODRIGUEZ-CORTEZ

JARED L. GRIMMER
Assistant United States Attorney

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2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF NEVADA**

4 UNITED STATES OF AMERICA,

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**Order on Stipulation
to Extend Deadlines to Conduct
Preliminary Hearing and
File Indictment**

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10 Based on the stipulation of counsel, good cause appearing, and the best interest of
11 justice being served; the time requested by this stipulation being excludable in computing
12 the time within which the defendant must be indicted and the trial herein must commence
13 pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of
14 Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

15 IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled
16 for October 13, 2020, at 4:00 p.m. is continued to January 11, 2021, at 4:00 p.m.,
17 in Courtroom 3C.

18 DATED: October 6, 2020.

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21 _____
22 HONORABLE NANCY J. KOPPE
23 UNITED STATES MAGISTRATE JUDGE
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